1Stele-005 Chancery Causes: Henry Colson vs. John Colson, jr. &c
Lee Co.

Stoemate, Shumate, Ely, McPherson, Shumaker, Littrell, Norvell,
Bush

CA- Estate Dispute
T- Property

Will: 1812 : Arva Colson Lee County

To The Hon Saml V Falkerson Judge of the Circuit Court of Lee County

Henry Coulson of the said County respectfully represents that in the year 18 that one John Hays and one Henry Hays were seized in fee of a certain tract of land situated in the western portion of the said County and supposed to contain about 130 acres and bounded now on the East by the lands of Robert McEly on the North by the lands of said Ely and the lands of Charles Berry on the West by the lands of Samuel McPherson and on the South by the lands of one John Coulson Sr and the lands that belongs to the heirs of Harvey Coulson Decd and that on the day of 18 the said Hayes bargained and sold the said land to your Orator and one Harvey Coulson for the sum of $300. and that the said Hayes agreed to make to your Orator and the said Harvey a right in fee to the said land by the day of 18 your Orator states that on the day of November 1834 that he paid the said Hayes in consideration of the said tract or parcel of land the sum of $150. being one half of the whole amount the said Hayes had sold the whole of the said land to your Orator and the said Harvey for and that on the day of 18 the said Harvey in consideration of part of the said land paid the said Hayes the remaining half of the purchase money of said land, and that on the 15 day of November 1834 the said Hayes in the absence of your Orator made to the said Harvey a right in fee to the whole of the said tract of land and said Hayes went immediately to South of the western Country your Orator states that at the time the said Harvey and himself purchased said land of said Hayes that it was their distinct and special agreement that your Orator was to have for the said sum of $150. paid to said Hayes in consideration of said land all that portion of said tract or parcel of land lying west of a branch running through said land known by the name of the land branch it being the largest branch that passes through said land

And that after said Hayes had made to said Harvy a right to all of the said land the said Harvy agreed and promised to make to your Orator a right in fee to all the said land west of said branch in Consideration of the sum of $150. paid to said Hayes as before stated the same being their Original Contract at the time of the purchase of said land. And as a part fulfilment of the said Harvys agreement and Contract he gave to your Orator full possession of the said land west of said branch which your Orator held and greatly improved said land for at least 12 years which was in sight of said Hayes dwelling which possession the said Harvy always recognized as lawful and just. Your Orator states that the said Harvy and himself were brothers and were not supposed to treat each other with that strictness that might be expected of strangers and that if the said Harvy had continued to live that there would have been no need of this suit but that he departed this life on the day of 18 without making your Orator any right to said land, And that your Orator has had possession of said land ever since the death of the said Harvy. And that the said Harvy left the following persons who are his only heirs (viz) John Colson Rebecca Shumate Bales Shumate William Colson Eliana Colson Harvy Colson and Sarah Colson the widow of the said Harvy Dec^d And that your Orator being without any adequate remedy at Common law and only relievable in a Court of Equity his prayer therefore is that the said John Colson Jr. Rebecca Shumate Bales Shumate William Colson Eliana Colson Harvy Colson and Sarah Colson be made parties defendants to this bill and that they be required to answer the several allegations thereof upon their Corporal oaths and that as the said William Colson Eliana Colson and Harvy Colson are under the age of 21 years that a guardian ad litem be appointed for them, And that upon a final hearing of this Case that your Hon^r will decree to your Orator all such right and title to the said land west of said branch as the said Harvy had at his death

and that your Hon^r will Extend to your Orator such other and further relief as the nature of his Case may require that is Consistent with Equity and justice. May the Commonwealth's writ of Sp^a issue directed to the undersigned duly bounded he will ever pray &c

Ely for Complt Ct

(E)

Henry Colson

vs } Bill

John Colson & others

Bill filed 22nd May 1860 by
T. McHamilton

Aff. cont'd. May, June
July, Aug. Sept
October Rules 1859
Answer of Guardian ad litem
filed T. McHamilton

Oct Rule set for hearing by
Order 1863 May Continued
1866 – April – Report Com'r Confd.
Decd made & stricken from
Docket.

Cost paid by Complt.

Cl 8.07
J 1.50
a 15.00
S 9.00
J – 11.45
W. 3.00
Sur. 4.00
Dr 2.50
Com'l. 19.75
74.27

To the Honorable Samuel V. Fulkerson Judge of the Circuit Court of Lee County.

The Separate Answer of William Colson, Galena Colson, and Harvy Colson, infant heirs of Harvy Colson deceased by David Miller, their Guardian ad litem to the bill of Complaint exhibited in this Court against these defendants & others.

These defendants by their Guardian after reserving to themselves the benefit of the usual exceptions to Complainants' bill, for answer thereto say that they are minors under the age of 21 years and and are not capable of judging correctly of the facts as stated in Compts. bill, and therefore they neither admit nor deny the Compts' allegations, though they ask that the Compts. be required to proceed as equity requires.

The Court of equity being the peculiar guardian of the rights of infants, therefore they ask the protection of the Court in any and every thing that affects their rights in the premises. And having answered they pray to be dismissed with their Costs.

David Miller
Guardian ad litem.

Virginia Lee County to wit:

This day David Miller personally appeared before me the undersigned Clerk of the Circuit Court of Said County and made oath that the above answer is true to the best of his knowledge and belief.

Given under my hand this the 3rd day of September 1859.

R M Hamlett Clk

Henry Colson

vs. } Answer of Guardian ad litem

John Colson & others

44
29
37
110

Ch 160

To the Honorable Samuel V. Fulkerson, Judge of the Circuit Court of Lee County, the seperate answer of Bailis Sherrate & Rebecca his wife, John W. Colson, and Sarah Colson, to a bill in Chancery filed in said Court against them and others by Henry Colson, respectfully shews:

That these respondents, saving now and at all times hereafter the benefit of all just & proper exceptions to the said bill, yet for answer thereto, or to so much thereof as they are advised it is material they should answer, they say: That these respondents have no personal knowledge of the contract alledged by complt to have been made between him and Harvey Colson deceased; but they do not admit such contract to have been made, and they claim all the benefit & advantage to which they are entitled by law from the fact, stated by the complt in his bill, that the alledged contract under which he now claims was a verbal one & not written. These respondents further state, that the deed ~~made on~~ stated in the bill to have been made by the Hays as to Arva (not Harvey) Colson decd in his lifetime was made, as appears by its date, on the 15th day of November 1834, which deed, with the certificates thereto annexed, is filed herewith as part of this answer marked (L.). It appears therefrom, that the pretended claim of the complt is of very antient date, and goes back to a period long before the said Arva Colson's death, which occurred about the day of October 1842. These respondents contend, that the lapse of so great a length of time without the complt having attempted till now to claim his pretended contract, and his sleeping upon it for more than twenty five years, and for many years after Arva Colson's death, is sufficient to mark the said claim as fraudulent & unjust, and they insist upon the limitation and strong presumption in their favor arising from the facts. They further state, that the complt lived, up to said

Arva Colson's death, very near him - within two or three hundred yards, and was constantly with him during his last illness which was a protracted one of some months continuance, and was present during that illness when said Arva made his will; yet, during all that time, as far as these respondents know or believe, he set up no such claim as he now advances. It is apparent to these respondents, that the complt has now stumped up his claim at a time when he has taken care that said Arva Colson cannot meet him, when it is difficult (probably impossible) to obtain the evidence necessary to sustain the rights of these respondents, & when his only antagonists now are a widow not informed of her late husband's business transactions, and some children all of whom were then, & some are now, infants having no knowledge of such matters and no knowledge where to find proof relating to it

It is true, that the complt has been in possession, & was at the time of Arva Colson's death, of a small part of that portion of the land he now claims, consisting of some eight or ten acres; but how he obtained such possession first, they do not know; they do not admit that it was obtained under the contract set forth in the complts bill. Since Arva Colson's death the respondent Sarah Colson his widow, who has devoted herself to the care & raising of her family, has permitted the Complt to occupy said small piece of ground, because she had besides as much cleared land as she could well cultivate, & complt was her brother-in-law & in rather narrow circumstances. These respondents file herewith, as part of this answer, a copy of the aforesaid will of Arva Colson marked (M.).

Having thus fully answered the complts bill, and denying generally all matters not herein already admitted, denied, or avoided, they pray to be hence dismissed with their costs, &c.

Johnston, for Rests

Sworn to in open Court by the respondent Bailis Sherrmates, Oct. 10th 1859.

R. W. Hambleton Clk

(J.

Bailey Shumate Adm.

vs. } Answer

Henry Colson

Exhibits filed.

filed in Open Court 10th day of October 1857.

Chd 160

Henry Colson Complt

vs } In Chancery

John Colson & others Defts

This cause came on again to be heard upon the papers heretofore read in the Case and the orders therein made and upon the decree rendered in the Case on the 13th day of October 1860 by which Henry J Morgan was appointed Commissioner to Convey to the Complainant from the Defendants the land in said decree mentioned and upon the report of said Commissioner Morgan bearing date on the 31st day of March 1861 ~~to which there were no exceptions~~ of his having conveyed the said land in the decree mentioned from the Defendants to the Plaintiff pursuant to said decree to which report there are no exceptions and the same is confirmed and the said deed made by said Commissioner of said land to said Plaintiff being seen and inspected by the Court is approved of and ordered to be placed in the hands of the Clerk of the County Court of Lee County for recordation and the said Cause being argued by Counsel on Consideration Whereof the Court doth adjudge order and decree that the Complainant recover of the Adult Defendants Bailey Shumate and John W Colson, who have contested the Pltfs right to recover, in this case his costs by him expended in prosecuting this suit And nothing further appearing necessary for the action of the Court it is ordered that the cause be stricken from the docket

Henry Colson

vs } Final Decree

John Colson & others

Entered Page 430

Entered this decree
J A C
April 25. 1866

Ch 160

Henry Colson Complainant
vs
John Colson & others Defts
} In chancery

This cause came on to be heard this 13th day of October 1860 upon the bill of the Complainant the answer of the Defendants Bailis Shumate & Rebecca his wife John W Colson and Sarah Colson, the answer of William Colson Galena Colson and Harvey Colson infant heirs of Harvey Colson Decd by their Guardian ad litem David Miller, the depositions of witnesses and exhibits filed and was argued by Counsel and it appearing that the order of publication made in this case against John Colson jr has been duly posted and published as the law requires and he still failing to appear and answer the Complainants bill it is ordered that the same be taken for confessed as to him and it moreover appearing to the Court that the Complainant is entitled to a conveyance from the Defendants (heirs at law of Harvey Colson Decd) of all that part of the tract of land in the bill mentioned lying West of the lane branch being the largest branch that passes through said said tract of land On consideration whereof the Court doth adjudge order and decree that Henry Morgan be and he is hereby appointed a commissioner to convey specially from the said Defts heirs at law of Harvey Colson Decd ~~all that part of the tra~~ to the Complainant Henry Colson all that part of the tract of land in the bill mentioned lying west of the lane branch which is alleged to pass through said tract of land and in the event that said branch does

not run entirely through said tract of land so as to form a division line between the said parties of said tract of land then that said Commissioner adopt the said branch as the division line of said tract of land so far as it may run through said tract of land and extend the division line through the said tract of land in the direction corresponding with the direction of said Lane's Branch and run out the said tract of land so as to inform the Court whether the extension of said division line from said branch be a fair and equal division of the said tract of land and make report thereof, together with a plat of said tract of land and division line, to the Court at the next term hereof at which time this cause is continued

Henry Coleman
vs
Decree
Geo Coleman jr & others

Oct. 1860

Filed
S. V. T.
Oct 18

Continued

The deposition of Robert M. Ely taken on the 8th day of September 1859 at the Residence of Robert M Ely in Lee County Virginia pursuant to the accompanying notice for the purpose of being used as evidence in behalf of Henry Colson in a suit now depending in the Circuit Court of Lee County Virginia wherein the said Henry Colson is Complainant and Sarah Colson John Colson Edmund Colson William Colson Harvey Colson Rilean Shumate and Bali Shumate are defendants, The said Robert M Ely after being first duly sworn deposes and says as follows

1st Question by Henry Colson

Mr Robert M Ely do you know the land that John and Henry Hayes sold to Harvey Colson and if so state where it lies and by whose lands it is bounded

Answer, I do. Lies in Lee County Virginia On the waters of Indian creek and bounded On the south by John Colston Senior on the west by William Sayers now by Samuel McPherson on the north by Charles Baley and Robert M Ely on the east by Bill Ely

2nd Question by same

Mr Ely state if you know who the said Hayes sold said land to, and by whom the said Hayes received payment for the said land and when

Answer - Hayses sold the land to Andy Colston as Hayse told me. I dont know all the payments, I was called on by Henry Colston to valew two horses as payment to said land. I and Mathew Gibson valued them hays received them as a part of the valew of said land, One of the horses was said to be Henreys the other Aveys, I think Henreys was

valued to twenty five dollars or eighty five dollars I dont correct know I think Arvey was valued to sixty or sixty five dollars

3rd Question by same

Mr R. M. Ely did you not the horses you and Coleman valued Jesse Hayes paying for said land or not

Answer – I think it was in the last payment

4th Question by same

Mr Ely Who has been in possession of said land west of a branch passing through and below called the law branch from the year 1834 untill the present

Answer – Hervey Coleston

5th Question by same

Mr Ely, In what year did Arvey Colson depart this life and how far does the land in Controversy lie from where Henry Colson lived and died

Answer – Harvey Colston Died in 1842 or 43 and lived in About three hundred yards of said Land

6th Question by same

Mr R. M. Ely how many acres are there in the tract of land in Controversy

Answer – I dont know I suppose about fifty

7th Question by same

Mr Ely at the time you valued said Horses to said Hayes did you value them as a payment of Arvey Colson or Henry Colson to said Hayes for said land

Answer – I dont know it was in payment of the land purchased by Colston of Hayes I suppose it was in a payment of both of them, And further this deponent saith not – Robert M Ely

Lee County: Town.

I Moses S Ball a Justice of said County do hereby Certify that the foregoing deposition was taken, sworn to and subscribed before me at the time and place mentioned in the Caption, And that the deposition is in the handwriting of the Witness and subscribed by him in My presence And that Henry Colson the Complainant, and Sarah Colson and Baliss Shumate two of the defendants and David Miller the Guardian adlitem for Celana Colson William Colson and Arvey Colson the three infant defendants were present during the Examination, And that I am not interested in this suit Given Under My hand this 30th day of September 1859

M. S. Ball J.P.

Justices fee .75

Henry Colson
vs } Deposition
John Colson & al

Recd sealed 10th Oct 1839
R. W. Hamblen clk

No 140

Henry Colson
vs } Depo
John Colson & al

Richard M. Humbleton
Jonesville
Virginia

No 140

The depositions of William J. Norris ~~David Sutton~~ Samuel McPherson John Shumate William H Sutton William Bush Enoch Bush John Colson & James B Colson

Taken at the residence of Robert M Ely in Lee County Virginia on the 30th day of September 1859 pursuant to the accompanying Notice for the purpose of being used as evidence in behalf Henry Colson in a suit now depending in the Circuit Court of Lee County Virginia wherein the said Henry Colson is Complainant and John Colson Sarah Colson Baily Shumate Robina Shumate Geliana Colson William C[illegible] and Hardy Colson are defendants, The said Samuel McPherson being first duly sworn deposeth and saith as follows

1st Question by Complainant

Mr Samuel McPherson please state what you may have heard Avery Colson say in his lifetime relative to the land now in controversy between Henry and his Widow and heirs

Ans at one time as much as any one serves one at this time I was walking up the branch with Avery Colson I named to him you & Henry have bought this land he said yes we then I ask him how they had divided he said with this branch now this is the Hayse land that John & Henry Hays owned this branch is known by the name of the lane branch Henry Colson took the west side of the branch and Avery Colson the East side of the branch the hole of said lands is bounded as follows on the west by Wm Sayers now McPhersons on the south by John Colson and the widow Colson sen, on the east by Robert M Ely on the north now by said Ely and Charles Baley

and further this deponent saith not S. McPherson

John Shumaker an other Witness of lawfull age after being duly Sworn deposes and Says as follows

1st Question by Henry Colson

Mr Shumaker do you know the land that John and Henry Hays deeded to Harvey Colson and if so state where it lays and how it is bounded

Answer by John Shumaker

I do - that the Land lies in Lee county on the waters of Indian Creek bounded on the West by William Sayers now by McPherson the north by bounded by Charles Baley and Robert M Ely the east by R M Ely on the South by John Calleston and Inlap Calleston

2nd Question by same

Mr Shumaker, State what you may have heard Arvey Colson in his lifetime say respecting to the purchase and paying for half of said land that you have above described

Answer by John Shumaker

Some years ago I was in field at Arvey Colestons and intoxicated to be my self and Arvey Coleston Arway Coleston stated to me that the land on the west side of the branch running from the Mountain by Henrey colestons was Henrey colestons

3rd Question by same, Mr Shumaker. State who has been in possession of all the tract of land you have above described West of said branch for the last 15 or Twenty years

Answer by John Shumaker

Henrey Colestons

Question by David Miller Guardian ad litem

Mr Shoumaker, Do you know who paid the Hayes for this land and who was the person who bought it from them? Ans. I do not.

And further this deponent saith not.

his
John Shumaker
mark

The deposition of William H Litteral an other witness of lawfull age after having been duly sworn deposes and says as follows

1st Question by Henry Colson

Mr Litteral State any thing you may have heard Harvey Colson in his lifetime or his wife Sarah Colson since his death say about the piece of land now in controversy between said Harvey's heirs and Widow and my self

Answer by William H Litteral

I never had acquaintance with the Arvey Coleston I have heard Sarah Coleston the widow of Arvey Coleston say that the Land ought to be Longs to Henrey Coleston if he had his rights.

Q: by D. Miller Guardian ad litem.

Do you know what land she alluded to at that time?

Answer by William H Litteral

I dont know I suppose it was the land in Controversy

And further this deponent saith not

his
William H Litteral
mark

The deposition of William J Norrell an other Witness of lawfull age after having been duly Sworn deposes and says as follows

1st Question by Henry Colson

Mr Norrell do you know the lands that John and Henry Hays deeded to Harvey Colson if so state where it lays and how it is bounded

Answer by William J. Norrell I know the Lands it lies in Lee County Virginia Bounded as follows On the North by the lands of Charles Bailey and R. M Ely and on the East by R. M Ely On the South by the lands of John

Colson Sr. and on the west by the lands of Samuel McPherson formerly the lands of William Sayers Sen.

2nd Question by same

Mr Norvell State ~~if you~~ And what you know about the Contract of said Sayers and Harvey Colson relation to said land, and also State anything you may have heard the said Harvey Colson or his Lifetime say about no paying for half of said land

answer by W. J. Norvell I do not know any thing about the Contract with Arva Colson and Hayes I heard Arva Colson say that himself and Henry Colson had bought the said a tract of land from the Hayes in partnership and the party paid for it in Horse property and had divided it themselves and all on the East side of the branch running near where the said Henry Colson now lives which he told me was the line they had made was his and all on the west of said branch was Henry Colson's this Conversation was in the year 1841.

3rd Question by same.

Mr Norvell State who has been in possession of all said tract of land you have in your first answer described lying West of said branch or the Spring and what ~~said~~ branch is known by

answer by W. J. Norvell Henry Colson has been in possession of the land and the branch is known by the name of the land branch and further this deponent saith that

W. J. Norvell

The deposition of William Rush an other Witness of lawfull age after having been duly sworn deposes and says as follows

1st Question by Henry Colson

Mr Rush do you know the land that John and Henry Hayes deeded to Arvey Colson and if so state where it lyes and how bounded.

Answer by Willis ~~Burgess~~ Rush

I know the lands said to have been purchased by Harry Coleston from Hayes the land lies on Jacksons on the water of Indian Creek and bounded on the South by John Coleston on the West by William Bayert New Lanes on the North by Staley Baly and Robert Bly on the East by Robert Bly

1st Question by Same
Mr Bush state anything you may have heard Harvey Colson say relative to Mr paying for half of said land that you have above described
Answer by William Bush
I know nothing about Harry Coleston paying for the land Harry Coleston say depositor is for to claim that the land on the West side of the branch the branch was Henry Coleston and that he ought to have made him a deed long ago for the land was Henry Colestons

2nd Question by Same
Mr Bush state any Conversation you may have heard Harvey Colson and his wife have about said land
Answer by William Bush
I dont recollect any thing more that I can state
And further this deponent saith not
his
William Bush
mark

The deposition of John Colson a an other witness of lawful age after having been duly sworn deposes and says as follows
1st Question by Henry Colson
Mr Colson State if you know the land that John and Henry Bay died to Harvey Colson if so state where said land lies and how

it is bounded

Answer by John Colerton

I do think the land lies in this county on the waters of Indian Creek the land on the south belongs to John Colerton on the west by William Sayers now by Samuel Hayes on the North by Robert M Ely and Charles Baly on the east by R M Ely

2nd Question by same

Mr Colson State anything you may know about a Contract of Harvey Colson Myself and John and Henry Hays relative to the purchasing of said land from said Hays

Answer by John Colerton

I have been present when there about the purchase of said land I think Henry Colerton got the land on the west side of the Spend from the Hays and Henry Colerton called the Lane branch and the east end

3rd Question by same

Mr Colson do you know how the Hays was paid for said land and by whom

Answer by John Colerton

I cant say by who Hayes received horses I think one from Harvey and one from Henry they were valued by R M Ely and Mathew Ellison in payment of said land

4th Question by same

Mr Colson who has been in possession of said land west of the said lane branch for the last 20 years and also state if there has been any improvement made on said land in the last 20 years and by who,

Answer by John Colerton

the land in controversy has been in possession of Henry Colerton and considerable improved for the last twenty years

And further this deponent saith not

John Colerton

The deposition of Enoch Bush an other Witness of lawful age after having been duly sworn deposes and says as follows

1st Question by Henry Colson.

Mr Bush do you know the land that John and Henry Hays sold to Harvey Colson and if so state where it lies and how it is bounded -

Answer by Enoch Bush

I know the land that is said to be the land purchased by Colerton of the Hayes lies in Lee county on the waters of Indian Creek, bounded on the south by John Colerton on the west by William Sayers now by Mr Jerry on the North by by Charles Baly and R M Ely on the East by R M Ely

2nd Question by same

Mr Bush State what you know about the Contract of said Hays Myself and Harvey Colson relative to the said land and also State anything you may have heard the said Harvey Colson say about me paying for half of said land and about him making me a right to said land west of the branch known by the name of the lane branch passing through said land

Answer by Enoch Bush

I know nothing about any contract between the parties, I was under Hayes any thing about the land more than Harvey Colerton told me the west end of the land was Harvey's to the lane branch

And further this deponent saith not

Enoch Bush

8

James B Colson a witness of lawful age after having been duly sworn deposes as follows

1st Question by Henry Colson

Mr Colson please state what you may know about the making payments to John and Henry Bero for the land now in controversy between Ingalls and the Widow and heirs of Harvey Colson deceased

Answer: I recollect of being present when two negro wages valued to Jesse I think they was valued by R. M. Ely & Mathew Gibson and my recollection is that one of the horses belonged to Harvey Colson and the horses went in payment to [illegible] the land, [illegible] [illegible] I do say [illegible]

And further the deponent saith not

James B Colson

State of County of

I Robert M Ely Justice of the said County do hereby Certify that the foregoing depositions were taken sworn to and subscribed before me at the time and place mentioned in the Caption and that Henry Colson the Complainant and Sarah Colson and Bali Skumate two of the defendants and that David Miller the guardian ad litem for the three infants defendants viz William Colson Liziana Colson and Avery Colson were present during the examination, and that said depositions are in the handwriting of the witnesses as subscribed by them in my presence

And that I have no interest in the event of said suit

Under my hand September 7th 1859

Robert M Ely

Bill of Cost

Justices fee	Robert McEly	$4.50
	Samuel McPherson	.50
Witnesses	William J. Norvell	.50
	John Shumaker	50
	William H. Littrell	.50
	William Bush	50
	Enoch Bush	50
		$7.50

So much of the answer of William H. Littrell to the first question asked him by complt ~~in exception~~ as gives the statements of Sally Colson, is excepted to as not proper evidence against the other defendants. Feb. 20th 1860. Johnston, for defts

Exception sustained
Saml. V. Wilkerson

Henry Calson
vs } depositions
John Calson et al

Rec'd sealed Oct 10th 1839
R. W. Hamilton clk C

Ad 160

Henry Colson

vs

Depositions

Bailis Shoemate

Rec'd sealed 24th Sept 1860

R M Hamblen Clk

Ad 160

Henry Colson, Complt. vs. John Colson & others Defts - In Chy

To the Honorable Samuel V. Fulkerson judge of the circuit court of Lee County.

By a decree of your honor entered in this cause on the 13th day of October 1860, the undersigned was appointed a commissioner to convey Specially from the said Defts heirs at law of Area Colson Decd, to the complainant Henry Colson all that part of the tract of land in the bill mentioned lying west of the lane branch, which is alleged to pass through said tract of land, and in the event that said branch does not run entirely through said tract of land so as to form a division line between the said parties of said tract of land; then that said commissioner adopt the said Branch as the division line of said tract of land so far as it may run through said tract of land, and extend the division line through the said tract of land in the direction corresponding with the direction of said branch, And he was further directed to run out the said tract of land, so as to inform the court whether the extension of said division line from said branch, be a fair and equal division of the said tract of land, and to make report thereof together with the plat of said land and division line to the court at the next term, And your commissioner having discharged those requirements would respectfully beg leave to report as follows

That on the 30th day of March 1861 (Your commissioner not being himself a Surveyor, procured the services of Eli Davis the deputy Surveyor of Lee county) I went with said Davis to the land in the bill mentioned, and ran around the same according to the said decree by the deed filed in this cause made by the Heirs to Area Colson, on the 15th Nov 1834 A plat of said entire tract of land as laid out by said Davis is herewith filed marked A. The bearings and distances not being given in said deed I had to lay

the said land by the courses and distances of contiguous tracts mentioned in said Deed Letters A, B, C, D, E & A. On said plat will show the entire tract as ran out by said Deed A, F, G, H, D, E & A. Shows that part of said tract of land directed to be conveyed to said Henry Colson by your com^r. by the decree aforesaid, which he has accordingly done See Deed filed herewith marked B.

Your commissioner will here remark, that part of the land embraced or seems to be embraced in said Deed is claimed by Robert M Ely under a patent issued by the commonwealth as your commissioner is informed That part of said tract claimed by said Ely will be seen by a reference to said plat, by figures 8, 11, 5, 6, 7, - 8 Said Ely and those holding under him, are now in possession of that part claimed by him

Your commissioner, regardless of the claims of said Ely upon said tract of land, has conveyed to said Henry Colson all the land lying west of said division line, considering as he does that, no conveyance made by him will in any way affect the rights of the parties, and considering to that the decree aforesaid directed such conveyance to be made All of which is respectfully submitted

H. J. Morgan Com^r

March 31st 1861

Bill of costs

7½	Hours in going 30 miles to the land in controversy	$5.62½
7½	Hours in returning from same place at 75 per hour	5.62½
5	Hours engaged in surveying while there at 75 " "	3.75
3	Hours in making this report at 75 per hour	2.25
	Surveyor for his services	4.00
	Charged to Henry Colson	$21.25

H. J. Morgan Com^r

Henry Colson

vs } Com.r Report,

John Colson et al

Filed March 31st. 1861

H. J. Morgan, D.C.

No 160

Henry Colson

vs } Survey & Plat,

John Colson & al

A

65
7½
525
37
562½

395

A Will of real and personal estate

I Arva Colson of Lee county and State of Virginia do hereby make my last will and testament in manner and form following that is to say,

1st, I desire that my mare and colt, one yoke of Oxen some young cattle and some young Hogs and one Mans Saddle be immediately Sold after my decease, and out of the Monies arising therefrom, all my just debts and funeral expenses be paid,

2d, I give to my wife Sary all the household furniture and the benefit of the plantation, four Milch cows one brown mare and colt, all the Sheep, 3 Sows and pigs and a Sufficient number of hogs for bacon, also the Beguns, to have so long as she remains a widow, and Should she Marry, then to have her thirds and my Heirs to have the benefit of the remainder of my estate, to be equally divided among them, I do hereby constitute and appoint my friend William Thompson executor of this my last will and testament, in witnes whereof I have hereunto set my hand and affixed my seal this 1st day of October 1842

Teste

Arva his x mark Colson

Silvester Thompson
John Colson
Richard Crabtree

Virginia

At a court begun and held for Lee county at the court House thereof on Monday the 17th of October 1842

The last will and testament of Arva Colson deceased was proved by the oaths of Silvester Thompson and John Colson, witnesses thereto and is ordered to be recorded, and on the Motion of William Thompson the executor therein named, who made oath thereto, and together with Joshua Ewing John Colson and Silvester Thompson his Securities, entered into and acknowledged a bond in the penalty of $500: conditioned as the law

law directs, certificate is granted him for obtaining a probate of the said Will in due form

Teste J. W. L. Morrison, C. C.

Copies

Teste

H. J. Morgan C. C.

Copy Arva Colson

For } Will

John Shoemaker

Fee for copy 110

(M.)

No 160

This Indenture made and conclu
ded upon this 15 day of November one thousand eight hund
red and thirty 1834 Between John Hays, Henry Hays and
Susan his wife, of Rutherford County & State of Tennessee
of the one part, and Arva Colson of Lee County and
State of Virginia of the other part. Witnesseth that the
said John Hays, Henry Hays and Susan his wife for, and
in consideration of the sum of two hundred and fifty
dollars, to them in hand paid by the said Arva
Colson, the receipt whereof is hereby acknowledged have
bargained and sold to the said Arva Colson a certain
tract, or parcel of land, lying and being in Lee County
on the waters of Indian Creek; and bounded as follows
to wit, Beginning at a stake on the top of the foot ridge
ridge between the line of said Hays, and William Hayes
on a line of John Colson's, and with the back the back line
of said Colson's line North eastwardly to a branch betwe-
-een a plantation of said Hays of forty two and a half acres
and the land of Robert M. Ely's, thence up said branch
with the meanders of the same a North westward course
to a small beech, on the bank of said branch,
between a high hill and a ridge, thence leaving
said branch, up the side of said ridge, nearly a North
course to two small white oaks on the side of said ridge, on
a line of R. & A. Crockett's survey, thence with said line
to the beginning corner of said survey, thence to the top
of a ridge, which is mentioned in the beginning, thence
along the top of said ridge 60 poles to the beginning
To have and to hold the said tract or parcel of land,
containing one hundred and thirty acres, be the
same more, or less with all the appurtenances, there
unto belonging, And the said John Hays, Henry Hays
and Susan his wife for themselves do covenant with
the said Arva Colson to warrant and defend
the aforesaid premises to the said Arva Colson
his heirs, or assigns, free from the claim of
themselves

themselves, their heirs, or any person claiming under or by them, But it is expressly understood between the parties that the sd John Hays, Henry Hays and Susan his wife are not to defence the aforesaid premises free from elder or better title than their, but from themselves their heirs &c they will for ever warrant and defence In witness whereof they have here unto set their hands and the day and year above written

Witness

John his ⊕ mark Hays (Seal)

Henry Clifton Witness

Henry his ✗ mark Hays (Seal)

Witness

Susan his ✗ mark Hays (Seal)

Alex H Sutton Witness Nov. 17. 1834.

State of Tennessee
Rutherford County } County court: November term, 1834.

I, John R. Laughlin, clerk of the county court of said county, do hereby certify, that the within deed of bargain and sale from John Hays, Henry Hays and Susan Hays his wife to Wm Colson, was presented in open court at the above term, and the execution thereof duly proven by the oath of Henry Clifton and Alexander H. Sutton, subscribing witnesses thereto. And thereupon the court, consisting of John Fletcher, William Crisson and Henry D. Jamison, Esquires, Justices, proceeded to take the privey examination of said Susan Hays, wife of said Henry Hays, seperate and apart from her said husband, who says she did freely and voluntarily execute the same for the purposes therein specified free from any fear, constraint or coercion of her said husband, and that she does

Poor Quality Original. Best Possible Capture

Hays, wife of Henry Hays, touching the execution of the same, who says she did freely and voluntarily execute the same free from any fear, constraint or coercion of her said husband, for the purposes therein specified, and that she does not now wish to retract therefrom, and ordered that the same be certified for registration in Lee county in the state of Virginia where the land lies.

In testimony whereof I have hereunto set my hand and affixed my seal of office at Murfreesborough, this 17th. day of November, 1834.

John R. Laughlin, Clerk.

State of Tennessee
Rutherford County } Set.

I John Fletcher, chairman of the county court of said county, do hereby certify, that John R. Laughlin whose official signature appears to the preceding certificate is the acting clerk of said court, that his said attestation is in due form of law, and that all his official acts are entitled to full faith and credit, in any court or office in the United States.

Given under my hand and seal at the county of Rutherford in the state of Tennessee, this 17th. day of November 1834.

John Fletcher, chr. (Seal)

John Knapp &
Henry Knapp Jun.
To Deed

Abra Colson

Recorded in Book
No 7 page 272

Clerks fees, examining
fees & State tax — $1.66

(L.)

Ad 160

State of Tennessee

~~Rutherford~~ COUNTY, to wit:

Cannon — We Isaac Finly J P & E Stephens J P

Justices of the Peace in the county aforesaid, in the state of ~~Virginia~~ Tennessee, do hereby certify, that

John Hays and Henry Hays

parties to a certain Deed, bearing date on the 15th day of Novr. 1834, and hereto annexed, personally appeared before us, in our county aforesaid, and acknowledged the same to be their act and deed, and desired us to certify the said acknowledgment to the Clerk of the County Court of Lee State of Virginia in order that the said deed may be recorded. Given under our hands and seals this 2 day of Nov 1836

Isaac Finly Justice of peas — Henry Hays (Seal)

E Stephens J P — John Hays (Seal)

State of Tennessee

~~Rutherford~~ COUNTY, to wit:

Cannon — We Isaac Finley Tennessee

Justices of the Peace in the county aforesaid, in the state of ~~Virginia~~, do hereby certify, that

Susan Hays ——— wife of Henry Hays

parties to a certain deed, bearing date on the 15th day of November 1834 and hereunto annexed, personally appeared before us, privily and apart from her husband, and having the deed aforesaid fully explained to her the said Susan Hays ——— acknowledged the same to be her act and deed, and declared that she had willingly signed, sealed and delivered the same, and that she wished not to retract it. Given under our hands and seals, this 3 day of November 1836

Isaac Finley J P (Seal) — her mark Susanna Hays

E Stephens (Seal)

Virginia

At a court begun and held for Lee county at the courthouse thereof on the 20th day of February 1837 This Indenture of bargain and Sale for land between John Hays and Henry Hays and Susan his wife of the one part; and Aron Dolson of the other part; admitted to record upon the certificates of Isaac Finley and Elijah Stephens two Magistrates of Cannon County in the State of Tennessee

Teste J.W.S. Morison DC

To John Colson Jr Rebecca Shumate Bailes Shumate Sarah Colson Harvey Colson William Colson and Selena Colson: You will take notice that On the 22nd day of August 1860 at the residence of R. M. Ely (Esqr) in Lee County Va I will proceed to take the depositions of Zenery Floyd & others to be read as evidence upon the trial of the suit in Chancery now pending in the Circuit Court of Lee County wherein I am plaintiff and you are defendants & if the said depositions should not be completed on said day the taking thereof will be continued from day to day and from time to time and if necessary adjourned from place to place until the said depositions are duly taken

August 1860

Henry Colson

Lee county to wit

This day Harvey J Colston came before me the under signd a Justice of the peace for said County and made oath that he delivered a true ~~copy~~ copy of the above notice to the ears of Arvey Colston as above stated in the above notice given under my hand this 22nd August 1860

Robert M Ely Jr

Notice
Copy

Virginia Lee County, to wit

This day W. S. Ely made oath before me Geo. W. M. Hamblen Clk that he believes John Colson Jr (son of Sarah Colson) is not a resident of this Commonwealth

Given under my hand June 20th 1859

W. M. Hamblen Clk

Colson
vs } Affidavit
Colson et al

Virginia

At Rules held in the Clerks Office of the Circuit Court of Lee County on monday the 4th day of July 1859.

Henry Calson — Complt

vs

John Calson jr, Rebecca Shoemate, Baliz Shoemate, William Calson, Selena Calson Harvey Calson and Sarah Calson children & heirs at law of Harvey Calson Decd. — Defts

} In Chancery

The object of the bill is to extract the legal title from the heirs of Harvey Calson Decd to the land in the bill mentioned, and vest the same in Complt. And it appearing that John Calson jr is not an inhabitant of this Commonwealth, it is ordered that he appear here within one month after due publication of this order, & answer the Complts bill, and that a Copy of this order be forthwith inserted in some newspaper published in this Commonwealth, for four successive weeks, and a Copy also posted at the front door of the Court House of this County

A Copy — Teste.

R. M. Hamblen Clk

Lee County to wit

This day came Richard M Hamblen Clerk of the Circuit of Lee County, before me the undersigned a Commissioner in Chancery in Lee County Virginia and made oath in due form of law that he had posted a Copy of the above order at the front door of the Court House of said County Given under my hand this 27th day of July 1859

A J Morgan Comr

Henry Colson
vs } Order Publication
John Colson jr. et al

Ad 18

To John Colson jr Rebecca Shumate Bali's Shumate Sarah Colson Harvey Colson William Colson and Gilaam Colson You will please take Notice that I shall on the 30th day of September 1859 at the residence of Robert McEly in Lee County Virginia proceed to take the depositions of William Thompson William Bush Enoch Bush Samuel McPherson Robert McEly James B. Colson John Colson Daniel Settles and others for the purpose (when so taken) of being used as evidence in my behalf in a Suit Now depending in the Circuit Court of Lee County Virginia Wherein I am Complainant and you are defendants I will Continue from day to day and from time to time untill said depositions shall be Completed

Given under my hand August 29th 1859

Henry Colson

Fanny Coleman
vs
Ohlen
John Coleman & Elor

Lee County, Towit,

This day Job B. Crabtree made oath before me the undersigned a Justice of the said County, that he handed to Sarah Colson Rebecca Shumate Bali's Shumate William Colson Gelany Colson and Harvey Colson a true Copy of the within Notice More than ten days previous to ~~the day~~ the 29th day of Septr 1859

Given under my hand September 1859

Robert M Ely JP

The Commonwealth of Virginia,

TO THE SHERIFF OF LEE COUNTY—GREETING:

WE COMMAND YOU TO SUMMON John Colson, Rebecca Shoemate Bailie Shoemate Eolance Colson, William Colson Harvey Colson & Sarah Colson,

to appear before the Judge of our Circuit Court for Lee County, at the Court House, in the Clerk's Office, at Rules to be held on the first Monday in May next to answer a Bill in Chancery exhibited against them by Henry Colson,

And have then there this writ. Witness, RICHARD M. HAMBLEN, Clerk of our said Court, at the Court House this 25th day of March 1857, in the 84th year of the Commonwealth.

R. M. Hamblen Clk

S E

Henry Colson

vs } Fi fa in Chy

John Colson et al

May Rules 1859

April 8th 1859 —
Executed on all of the within except John Colson he is not in the commonwealth his mother says he is in Kentucky about the Craborchard

J. H. Brown D.S.

No 18

The Commonwealth of Virginia,

TO THE SHERIFF OF LEE COUNTY—GREETING:

WE COMMAND YOU TO SUMMON John Calson, Rebecca Shoemate Falies Shoemate Geland Calson, William Calson Harry Calson, & Sarah Calson,

to appear before the Judge of the Circuit Court for Lee County, at the Court House, in the Clerk's Office, at Rules to be held on the first Monday in may next to answer to a bill in Chancery exhibited against them by Henry Calson.

And have then there this writ. Witness, RICHARD M. HAMBLEN, Clerk of our said Court, at the Court House, this 28th day of March 185[illegible], in the 54th year of the Commonwealth.

R. M. Hamblen Clk

A Copy Teste

R. M. Hamblen Clk

Lee County, Court:

To the Sheriff or any Constable of the Said County

I Command you in the Name of the Commonwealth of Virginia to Summon, Daniel Letner Sr. William Thompson William J. Stowell William Buck Enoch Buck William H. Sellers James B. Colson Samuel McPherson and John Colson to appear on the 30th day of September 1859 at Robert M. Ely's Residence in the said County before me or Such Other Justice of the Said County as May then be there to give Evidence in behalf of Henry Colson, in a Suit depending in the Circuit Court of Lee County Virginia Wherein the said Henry Colson is Complainant and the Widow and heirs of Henry Colson Decd are Respondents

Given under My hand this 24th day of September 1859

Robert M. Ely J.P.

We acknowledge the legal service of the within summons
this 27th of September 1859

James B. Colson
S. McPherson
Enoch his X mark Bush
Daniel Pittuce
Wm H Jilrell
John Colson

W. J. Noble

Henry Colson
Sr
John Colson Junr

(6)

VIRGINIA, *Washington County, to wit:*

I do hereby certify that the annexed notice has been published, four weeks successively, in the ABINGDON VIRGINIAN, a newspaper printed in the town of Abingdon and State aforesaid. Given under my hand Oct 5th 1859

Geo W Bain
Jr Ed. Virginian

Printer's fee, $

VIRGINIA:

AT Rules held in the Clerk's office of the Circuit Court of Lee county, on Monday, the 4th day of July, 1859:

Henry Colson, Complainant,
vs.
John Colson, jr, Rebecca Shoemate, Balis Shoemate, William Colson, Geland Colson, Harvy Colson, and Sarah Colson, children and heirs at law of Harvey Colson, dec'd, Defendants.

IN CHANCERY.

The object of the bill is, to extract the legal title from the heirs of Harvy Colson, dec'd, to the land in the bill mentioned, and vest the same in complainant: And it appearing that John Colson, jr., is not an inhabitant of this commonwealth, it is ordered that he appear here within one month after due publication of this order and answer the complainant's bill, and that a copy of this order be forthwith inserted in some newspaper published in this commonwealth, for four successive weeks, and a copy also posted at the front door of the Court House of this county. A copy.—Teste,

R. M. HAMBLEN, Clk.

Aug. 5, 1859—4w

Mr. Henry Colson Lee

1859 To Coale & Bam Dr

Aug. 5 To pub. ch. order vs. Jno. Colson, Dr. Vab

2 sqrs. 4 wks. $5,75

Received pay

A. M. Crockett

for Coale & Bam

VIRGINIA:

AT Rules held in the Clerk's office of the Circuit Court of Lee county, on Monday, the 4th day of July, 1859:

Henry Colson, Complainant,

vs.

John Colson, jr, Rebecca Shoemate, Balis Shoemate, William Colson, Geland Colson, Harvy Colson, and Sarah Colson, children and heirs at law of Harvey Colson, dec'd, Defendants.

IN CHANCERY.

The object of the bill is, to extract the legal title from the heirs of Harvy Colson, dec'd, to the land in the bill mentioned, and vest the same in complainant: And it appearing that John Colson, jr., is not an inhabitant of this commonwealth, it is ordered that he appear here within one month after due publication of this order and answer the complainant's bill; and that a copy of this order be forthwith inserted in some newspaper published in this commonwealth, for four successive weeks, and a copy also posted at the front door of the Court House of this county. A copy.—Teste,

R. M. HAMBLEN, Clk.

Aug. 5, 1859—4w

Henry Colson

Apt $3.75

TO JOHN COLSON, JR., REBECCA SHUMATE, AND BALIS SHUMATE:

YOU will please take notice that, I shall, on the 30th day of September, 1859, at the residence of Robert M. Ely, Esqr., in the county of Lee, and State of Virginia, proceed to take the depositions of William Thompson, Samuel McPherson, Robert M. Ely, William Bush, Enoch Bush, John Colson, Daniel Littrell, James B. Colson, and others, for the purpose of being used as evidence in my behalf in a suit now depending in the Circuit Court of Lee county, Virginia, wherein I am complainant and you and others are defendants. I will continue from day to day, and from time to time, until said depositions shall be completed. HENRY COLSON.

September 2, 1859—4w

Jonesville, Oct. 18th, 1859.

I certify that the foregoing notice to take depositions was regularly published for four successive weeks in the "Democrat," a newspaper published in the town of Abingdon, Virginia.

Alfred A Baker,
Editor